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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,851

12/03/2004

Alfons Bockmann

MY-27PCT

7267

40570 7590 02/26/2009
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EXAMINER

O HERN, BRENT T

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

02/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/516,851	Applicant(s) BOCKMANN ET AL.	
	Examiner Brent T. O'Hern	Art Unit 1794	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 2, 5 and 7.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/BTO/
 Brent T. O'Hern
 Examiner, Art Unit: 1794

/Elizabeth M. Cole/
 Primary Examiner, Art Unit 1794

Continuation of 11. does NOT place the application in condition for allowance because:

In response to Applicant's arguments (see pp. 3-6 of Applicant's Paper filed 2/10/2009) regarding the rejected claims, it is noted that Applicant does not specifically refer to any limitation of any claim but rather generally about the prior art of record.

In response to Applicant's arguments (see p. 4, para. 2 of Applicant's Paper filed 2/10/2009) that the reference does not disclose a compatibility of the mechanical, chemical and thermal properties of the coating to the corresponding properties of the container material, it is noted that if the coating were not compatible then the coating would not be able to bond to the surface and function as a barrier material per the cited conditions of use. Furthermore, Carlblom ('365) clearly teaches the structure as claimed (See col. 1, ll. 9-14, col. 2, ll. 21-33, col. 3, ll. 7-13, col. 4, ll. 50-60, col. 10, ll. 50-67 and col. 12, ll. 14-31.)

In response to Applicant's arguments (see p. 4, para. 3 of Applicant's Paper filed 2/10/2009) that since one of the examples in Carlblom ('365) teaches a thickness greater than what is claimed that this overrides the specific teaching of a thickness less than 0.5 mil, is noted that there is nothing in the record stating that one should disregard the express teachings in col. 4, ll. 50-60. Furthermore, Carlblom ('365) expressly teaches that thicker coatings cost more than thinner coatings (See col. 4, ll. 50-60.), thus, it is not necessary to have the thickest possible coating when thinner coatings are effective and cost less. Carlblom's ('365) coating thickness allows for its product to function as intended. Applicant does not present any evidence that Carlblom's ('365) product will not function as intended with the claimed thickness.

In response to Applicant's arguments (see p. 5, para. 2 of Applicant's Paper filed 2/10/2009) that it is questionable whether treatment of Carlblom's ('365) product per the method steps as disclosed by Applicant would render the surfaces fat free, etc., it is noted that is unclear where fat would ever get into the coating as the coating does not have anything to do with fat. Furthermore, both Carlblom ('365) and Applicant's inventions are directed towards containers.

In response to Applicant's arguments (see p. 6, para. 2 of Applicant's Paper filed 2/10/2009) that the UV treatment method of Carlblom's ('365) is different than Applicant, it is noted that Applicant's invention is directed towards a product and not to a method. Furthermore, the method step is not even required per Applicant's invention due to the "for example" language in claim 5..

/BTO/
Brent T. O'Hern
Examiner, Art Unit: 1794